IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

And
THE HON'BLE MR JUSTICE G.CHANDRAIAH

WRIT PETITION NO : 5252 of 2005

Between:

People's Union for Civil Liberties Andhra Pradesh, Hyderabad, Rep, by its General Secretary, Jaya Vindhyala Advocate, O/o. No. 16-8-908/7, Yadav Complex, Malakpet 'X' Roads, Hyderabad, A.P.

..... PETITIONER

AND

1 The State of A.P. Rep. by its Principal Secretary, Home Department, Secretariat, Hyderabad.
2 The Inspector General of Prisoners and Director of Correctional Services,

Chanchalguda, Hyderabad, A.P.
3 The Superintendent of Jail, Central Jail, Cherlapally, Hyderabad, A.P.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of HABEAS CORPUS, Under Article 226 of the Constitution of India, directing the respondents herein to release the Four Prison i.e, (1) Sri Burra Rajaiah S/o. Ankulu, aged 50 years, C.T.No. 500, Warangal District, (2) Sri Manda Kotaiah S/o. Paradeshi, aged 48 years, C.T.No. 1862, Krishna District. (3) Sri Venkat Krishna Reddy S/o. Guruva Reddy, aged 45 years, C.T.No. 4626, Guntur District, and (4) Sri Sampangi Gopaiah S/o. Laxmaiah, aged 45 years, C.T.No. 4284, Nalgonda District , A.P. forthwith after calling for the records and to pass such other

orders that this Honourable Court may deem just.

Counsel for the Petitioner : MR.PRATTIPATI VENKATESWARLU

Counsel for the Respondents : THE ADVOCATE GENERAL

The Court, at the admission stage, made the following :

ORDER : (Per Hon'ble Sri Bilal Nazki, ACJ)

This is a writ petition seeking release of four of the detenus, as according to them, they are entitled to be released in terms of G.O.Ms.No.190, Home (Prisons-C) Department, dated 07.08.2004. Para 2(a) of the said G.O. lays down;

> *"2. (a) Convicted prisoners sentenced to imprisonment for life and governed by section 433-A, Code of Criminal Procedure, 1973 (Central Act 2 of 1974) and who have undergone an actual sentence of 7 years and total sentence of 10 years as on 15-08-2004."*

According to the learned Counsel for the petitioner, three of the four detenus have undergone actual sentence of 7 years and total sentence of 10 years as on 15-08-2004 therefore, they are entitled to be released. It is conceded by the learned Counsel for the petitioner that detenu No.4 is not entitled to be released in terms of the said G.O., but he contends that the other detenus are entitled to be released.

In the counter affidavit the respondents have given the particulars of the periods of imprisonment of the detenus, in tabular forms, which shows that none of the detenus had served the actual sentence of 10 years and all the three had overstayed the parole

period; one of them had overstayed 10 years 7 months, another 3 years 2 months and another also 10 years. The remissions granted to them were also cancelled by the competent authority. That action of the respondents canceling remissions has not been challenged before this Court. Since the detenus do not fall within para 2(a) of G.O.Ms.No.190 as they are not served with the sentence as is stipulated in the said provision, they are not entitled to be released.

For these reasons, the writ petition fails and it is dismissed. No order as to costs.

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BILAL NAZKI, ACJ

15th June 2005.

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G.CHANDRAIAH, J

ajr

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Principal Secretary, Home Department, Government of A.P. Secretariat,

Hyderabad.
2 The Inspector General of Prisons and Director of Correctional Services,

Chanchalguda, Hyderabad, A.P.
3 The Superintendent, Central Jail, Cherlapally, Hyderabad, A.P.
4 Two C.Cs. to the Advocate-General, High Court of A.P., Hyderabad (OUT)

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